

## NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1995, each agency shall begin the rulemaking process by 1st filing a Notice of Proposed Rulemaking, containing the preamble and the full text of the rules, with the Secretary of State's Office. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the Arizona Administrative Register.

Under the Administrative Procedure Act (A.R.S. § 41-1001 *et seq.*), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

### NOTICE OF PROPOSED RULEMAKING

#### TITLE 7. EDUCATION

#### CHAPTER 1. STATE BOARD OF DIRECTORS FOR COMMUNITY COLLEGES OF ARIZONA

##### PREAMBLE

- |   |                                    |
|---|------------------------------------|
| 1. <u>Sections Affected</u><br>R7-1-705 | <u>Rulemaking Action</u><br>Repeal |
|---|------------------------------------|
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):  
Authorizing statute: A.R.S. § 15-1425(1)  
Implementing statute: A.R.S. § 15-1425(1)
3. The name and address of agency personnel with whom persons may communicate regarding the rule:  
Name: Thomas J. Saad  
Address: State Board of Directors for Community Colleges of Arizona  
3225 North Central Avenue, Suite 1220  
Phoenix, Arizona 85012  
Telephone: (602) 255-4037  
Fax: (602) 279-3464
4. An explanation of the rule, including the agency's reasons for initiating the rule:  
This rule is being abolished because the State Board does not have statutory authority over hiring, firing, or compensation of community college district personnel.
5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:  
Not applicable.
6. The preliminary summary of the economic, small business, and consumer impact:  
The proposed rule will not adversely impact small business or consumers.
7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:  
Name: Thomas J. Saad  
Address: State Board of Directors for Community Colleges of Arizona  
3225 North Central Avenue, Suite 1220  
Phoenix, Arizona 85012  
Telephone: (602) 255-4037  
Fax: (602) 279-3464

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8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:

Date: August 16, 1996

Time: 1:30 p.m.

Location: Wyndham Pioneer College  
1001 West Deuce of Clubs  
Show Low, Arizona

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

10. Incorporations by reference and their location in the rules:

None.

11. The full text of the rules follows:

**TITLE 7. EDUCATION**

**CHAPTER 1. STATE BOARD OF DIRECTORS FOR COMMUNITY COLLEGES OF ARIZONA**

**ARTICLE 7. INSTRUCTION, FACULTY, AND STAFF**

Section

~~R7-1-705: Employment Standards by Districts; Professional Staffing Standards; Instructors; Librarians; Others~~

**ARTICLE 7. INSTRUCTION, FACULTY, AND STAFF**

~~R7-1-705: Employment Standards by Districts; Professional Staffing Standards; Instructors; Librarians; Others~~

~~A. Salaries—The district governing board shall establish salaries for all district college personnel.~~

~~B. Personal leaves—District governing board shall establish policies permitting leaves of absence, sick leaves, and vacations for all district college personnel.~~

~~C. Employment and retention—District governing boards shall establish employment policies which protect personnel from unreasonable dismissal and the colleges from the necessity of retaining unsatisfactory personnel (A.R.S. § 15-679).~~

~~D. Professional standards; instructors; librarians; others~~

~~1. Instructors who work with academic matters or student affairs shall be properly certified in their major area.~~

~~2. Instructors for non-credit courses may be required to be certified.~~

~~3. When a course is under a director or coordinator, he will be properly certified. Specialists who teach under 10 class hours in a course directed by a coordinator may be paid appropriate honorariums without their being certified.~~

~~4. Certificated personnel must hold active certificates which are registered with the appropriate official in their district to be eligible for receiving pay.~~

~~5. Libraries shall be staffed by at least 1 professional librarian possessing a graduate degree in library science, or a master's degree with a major in library science (A.R.S. § 15-660).~~

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ARIZONA LONG-TERM CARE SYSTEM**

**PREAMBLE**

**1. Sections Affected**

R9-28-301  
R9-28-301  
R9-28-302  
R9-28-303  
R9-28-303  
R9-28-304  
R9-28-305

**Rulemaking Action**

Repeal  
New Section  
New Section  
Repeal  
New Section  
New Section  
New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 36-2932(P)

Implementing statutes: A.R.S. § 36-559, 36-2901, 36-2931, 36-2932(Q), 36-2933(B), 36-2936, and 36-2958

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**3. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Debi Wells, Executive Administrator  
Address: AHCCCS Administration, Office of Policy Analysis and Coordination  
801 East Jefferson, Mail Drop #4200  
Phoenix, Arizona 85034  
Telephone: (602) 417-4781  
Fax: (602) 256-6756

**4. An explanation of the rule, including the agency's reasons for initiating the rule:**

*NOTE: Rulemaking on the subject rules was initiated earlier this year, public hearings were held in both Phoenix and Tucson the week of March 25 during which oral comments were given, and written comments were accepted through the end of March 1996. However, publication of the Notice of Proposed Rulemaking in 2 A.A.R. 654, January 12, 1996, should have been preceded by publication of the Notice of Rulemaking Docket Opening, which did not occur until May 3, 1996. Due to this administrative technicality, the rulemaking action was terminated (see Notice of Termination in this issue of the Register) and is being reinitiated via a new Notice of Rulemaking Docket Opening (also published in this issue of the Register). All oral and written comments previously received will be considered part of this new rulemaking action.*

The AHCCCS Administration is repealing R9-28-301 and R9-28-303 and proposing for adoption R9-28-301, R9-28-302, R9-28-303, R9-28-304, and R9-28-305. The proposed rules are necessary to comply with rulemaking provisions of A.R.S. § 41-1001 et seq for the preadmission screening (PAS) process used by the Administration to determine medical eligibility for applicants, eligible persons, and members for long-term care services provided through the Arizona Long-term Care System (ALTCS) program.

AHCCCS has conducted preadmission screening for ALTCS applicants, eligible persons, and members since the beginning of the ALTCS program in 1988. During this time, the PAS instrument and the PAS process have been utilized under the general authority of A.R.S. § 36-2936 and 9 A.A.C. 28, Article 3.

The current rules, R9-28-301 and R9-28-303, have been challenged by Community Legal Services and the Arizona Center for the Law in the Public Interest in the Case of Shea and Lacy et al. v Chen et al. (Maricopa County Superior Court, No. CV 93-18886), as not properly apprising applicants, eligible persons, and members of the medical eligibility requirements for ALTCS. Plaintiffs are requesting that the agency adopt more detailed rules that include:

- Definition of terms used by PAS assessors, including scoring definitions;
- Elements that are scored as well as the weights given;
- Standards for making a determination that a physician review is required;
- Standards for physician review;
- Definition of what it means to require an institutional level of care; and
- Standards for when the PAS will be completed by a nurse or a social worker.

The Court granted Plaintiffs' motion for summary judgment, indicating that the agency's more detailed preadmission screening policies should be "rules" subject to the rulemaking requirements of the Administrative Procedure Act.

As a result of that Court's ruling, Plaintiffs have filed an Order which would prevent AHCCCS from using any new PAS policies or PAS instruments until formal adoption and certification of new rules on these subjects. The Order requires for a period of 90 days from the date of the Order or until changes to Article 3 have been promulgated pursuant to the Administrative Procedure Act, that AHCCCS use the proposed rule adoptions attached to the Order to determine medical eligibility for ALTCS services.

A summary of each of the proposed rules follows:

**R9-28-301, Definitions:** Adds definitions of terms which are specific to the PAS program. These are terms which are not used elsewhere in the ALTCS rules. Those other general ALTCS words and phrases are defined in R9-28-101 and in statute, A.R.S. §§ 36-2931 (ALTCS) and 36-2901 (AHCCCS, acute care). It should be noted that the new rule definitions were requested by Plaintiffs in the Shea/Lacy case.

**R9-28-302, General Provisions:** Significantly expands on the rule of the same name proposed for repeal, the current R9-28-301. The new rule implements A.R.S. §§ 36-2933(B) and 36-2936, statutes which mandate preadmission screening to determine if applicants are eligible for ALTCS institutional level services. This rule lays the groundwork for the PAS program and sets forth procedural steps for utilization of specific PAS instruments described in the 2 following rule adoptions, R9-28-303 and R9-28-304.

**R9-28-303, Preadmission Screening for the Elderly and Physically Disabled (EPD).** Implements that portion of A.R.S. § 36-2936(A) which calls for a PAS "instrument that assesses the functional, medical, nursing, and social needs of the applicants." The rule describes assessment categories, details the scoring calculations, and indicates points available and weights. Usage of the PAS instrument specifically for the EPD population dates to 1992, when it was determined that unique PAS instruments were needed for EPD applicants and developmentally disabled applicants.

**R9-28-304, Preadmission Screening for the Developmentally Disabled.** Implements A.R.S. § 36-2936(A) and does so for developmentally disabled persons in accordance with A.R.S. § 36-559. Similar to the preceding rule, this Section describes assess-

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ment categories, details the scoring calculations, and indicates points available and weights. This rule reflects certain age-specific variables concerning risk of institutionalization, in line with differing developmental needs of children and other applicants over their lifetimes.

**R9-28-305, Reassessments.** Expands on the rule of the same name proposed for repeal, the current R9-28-303. The new rule implements that portion of A.R.S. § 36-2936(B) which states that "the Administration shall establish guidelines for the periodic reassessment of each member." The Section sets forth standards for such reassessments and indicates timeframes for conducting them. In the latter instance, the new Section goes beyond the old rule to identify specific exceptions to the usual annual intervals.

Overall, the proposed preadmission screening rules reflect conformity with federal Title XIX (Medicaid) requirements and sufficiency to retain federal monies for ALTCS, as mandated by A.R.S. § 36-2932(Q). Continued federal funding is crucial to ensure continued ALTCS operations, rather than program suspension and denial of services under the harsh terms of A.R.S. § 36-2958.

**5. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

**6. The preliminary summary of the economic, small business, and consumer impact:**

Since the inception of the ALTCS program in 1988, a preadmission screening (PAS) instrument has been used to help determine eligibility for the program by assessing a person's "risk of institutionalization." The agency began using a revised PAS tool to assess individuals with developmental disabilities in September 1995. The tool was revised after months of research, development, and testing and is currently in use under the emergency rules. The proposed rules will replace the emergency rules which expire early this summer.

Without PAS rules, AHCCCS would be required to directly contravene the statutory mandate of A.R.S. § 36-2936, which requires the agency to use a uniform statewide PAS instrument to evaluate ALTCS applicants. Moreover, failure to use the PAS instrument and policies would constitute a breach of the terms of the Section 1115 waiver with the Health Care Financing Administration (HCFA), leading to termination of federal funding for the ALTCS program. The economic impact on the state would be dramatic - in state fiscal year 94-95, AHCCCS received federal matching funds for ALTCS which totaled in excess of \$340 million. With adoption of the proposed rules and continued use of the PAS, AHCCCS can continue to claim federal matching funds for the ALTCS program.

The proposed rules are anticipated to have no significant economic, small business, or consumer impact since no significant new direct costs arise though the adopted rules. In addition, since the PAS is required under AHCCCS' waiver with the federal government, even if there were any direct costs related to the adopted PAS rules, these costs would not directly be a function of the rule, but of the statute and the agreement with HCFA. Through use of the PAS and continuation of the ALTCS program, small businesses that participate as providers in the ALTCS program will be assured of continued funding to reimburse those services they provide to ALTCS-eligible persons and members. Certain consumers who are ALTCS-eligible persons and members will continue to receive health care and long-term care services in the least restrictive medically appropriate setting, thereby enhancing their quality of life. Finally, the state of Arizona will remain in compliance with the terms and conditions of the Section 1115 waiver with the Health Care Financing Administration, thus resulting in continued federal funding for the ALTCS program.

**7. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Debi Wells, Executive Administrator  
Address: AHCCCS Administration, Office of Policy Analysis and Coordination  
801 East Jefferson, Mail Drop #4200  
Phoenix, Arizona 85034  
Telephone: (602) 417-4781  
Fax: (602) 256-6756

**8. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:**

See "Note" in question #4. All oral and written comments already received by the agency during the previous (and subsequently terminated) rulemaking action will be considered by the agency as received for this currently rulemaking process will be treated as if they were received during the July 1, 1996, hearing. Any additional written comments may be sent to the address listed above and must be received by the agency no later than 5 p.m. on July 1, 1996

Date: July 1, 1996  
Time: 1:30 p.m.  
Location: AHCCCS Administration  
701 East Jefferson, 3rd Floor (posted signs will identify conference room)  
Phoenix, Arizona  
Nature: Public hearings on proposed rules.

**9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
None.

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**10. Incorporations by reference and their location in the rules:**

- Section 1902(e)(9) of the Social Security Act, October 21, 1993 -- R9-28-302.
- PAS instrument for the elderly and physically disabled, October 1992 -- R9-28-303.
- PAS instruments for the developmentally disabled, August 1995 -- R9-28-304.

**11. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)  
ARIZONA LONG-TERM CARE SYSTEM**

**ARTICLE 3. PREADMISSION SCREENING**

Section:

- R9-28-301. General provisions Definitions
- R9-28-302. General Provisions
- R9-28-303. Reassessment Preadmission Screening for the Elderly and Physically Disabled
- R9-28-304. Preadmission Screening for the Developmentally Disabled
- R9-28-305. Reassessments

**ARTICLE 3. PREADMISSION SCREENING**

**R9-28-301. General provisions**

- A.** To qualify for services under the ALTCS program, an individual shall meet the eligibility criteria as described in Article 4 of this Chapter and require long-term care services at an Intermediate or Skilled level of care as determined through preadmission screening.
- B.** Applicants for the ALTCS program shall be assessed using the preadmission screening instrument prescribed in this Section. The preadmission screening instrument shall be a standard form prescribed by the Director and used uniformly for the ALTCS program. The preadmission screening instrument shall consist of a standard set of questions and criteria designed to assess the functional, medical, psychosocial, and nursing services needs of the individual.
- C.** When determining the medical eligibility of an ALTCS applicant on an original application for benefits and upon reassessment of eligibility, and the applicant exhibits indications of chronic mental illness, the following shall apply:
  - 1. The determination of medical eligibility for those applicants who score above the preadmission screening eligibility threshold for ALTCS benefits shall be referred to a physician for the determination of medical eligibility.
  - 2. The reviewing physician to whom the application is referred shall determine whether the applicant is medically eligible for ALTCS benefits based upon the medical care needs of the applicant other than those needs determined by the physician to be attributable to the chronic mental illness.
- D.** The preadmission screening instrument shall be used to:
  - 1. Determine the need for service in a Nursing Facility (NF) Class 1, 2, 3, and 4, or Intermediate Care Facility for the Mentally Retarded (ICF-MR);
  - 2. Assist in evaluation of appropriate and cost-effective placement for services;
  - 3. Assist in the assessment and determination of ventilator dependent individuals for inclusion in the special fee-for-service ventilator dependent program; and
  - 4. Assist in evaluation of the need for home and community based services.
- E.** In addition to a preadmission screening, to qualify for ALTCS institutional services an individual shall have certification documenting the individual's need for long-term care services. An individual's need for long-term care nursing facility services

shall be certified and recertified in accordance with R9-28-511 by a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician.

**R9-28-301. Definitions**

- A.** Common definitions. The following words and phrases, in addition to definitions contained in A.R.S. Title 36, Chapter 29, and 9 A.A.C. 28, Article 1, have the following meanings for elderly and physically disabled individuals and for developmentally disabled individuals:
  - 1. "Acute" means an active medical condition having a sudden onset, lasting a short time, and requiring immediate medical intervention.
  - 2. "Chronic" means a medical condition which is always present or occurs periodically or is marked by a long duration.
  - 3. "Constant/constantly" means at least once a day.
  - 4. "Current" means belonging to the present time.
  - 5. "Disruptive behavior" means inappropriate behavior that interferes with the individual's normal activities or the activities of others and requires intervention to stop or interrupt the behavior.
  - 6. "Frequent/frequently" means weekly to every other day.
  - 7. "Functional assessment" means the evaluation of information about the individual's ability to perform activities related to developmental milestones, activities of daily living, communication, and behaviors.
  - 8. "History" means a medical condition which occurred in the past and may or may not have required treatment and is not now active.
  - 9. "Intervention" means therapeutic treatment, including medication, behavior modification, and physical restraint.
  - 10. "Medical assessment" means the evaluation of the individual's medical condition and the individual's need for medical services.
  - 11. "Medical/nursing services and treatments" means specific, ongoing medical, psychiatric, or nursing intervention used to actively resolve or prevent deterioration of a medical condition/diagnosis. Durable medical equipment and activities of daily living assistive devices are not considered to be treatment unless the equipment is used specifically and actively to resolve the existing medical condition.
  - 12. "Occasional/occasionally" means less than weekly.
  - 13. "Physical participation" means active participation, not just being passive or cooperative.
  - 14. "Physically lift" means actively bearing some part of the individual's weight during movement or activity and excludes bracing or guiding activity.
  - 15. "Social worker" means an individual with a baccalaureate or master's degree in social work, rehabilitation, counseling, education, sociology, psychology, or other closely related field, or 2 years of case management-related experience.

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16. "Special diet" means a diet planned by a dietitian, nutritionist, or nurse such as high fiber, low sodium, or pureed.
17. "Toileting" means the process involved in managing the elimination of urine and feces in the appropriate place(s).
18. "Vision" means the ability to visually perceive objects.
- B. Elderly and physically disabled.** The following words and phrases, in addition to definitions contained in subsection (A), have the following meanings for elderly and physically disabled individuals only:
  1. "Aggression" means physically attacking another, including, but not limited to, throwing objects, punching, biting, pushing, pinching, pulling hair, scratching, and physically threatening behavior.
  2. "Bathing" means the process of washing, rinsing, and drying all parts of the body, including the individual's ability to transfer to the tub or shower and the ability to obtain the bath water and/or equipment.
  3. "Continence" means the ability to control the discharge of body waste from bladder or bowel.
  4. "Dressing" means the physical process of choosing, putting on, securing fasteners, and removing clothing and footwear, including weather appropriate but excluding aesthetic concerns such as matching colors. This includes artificial limbs, braces, and other appliances which are needed daily.
  5. "Eating" means the process of putting food and fluids by any means into the digestive system.
  6. "Elderly" means age 65 or older.
  7. "Emotional and cognitive functioning" means the individual's orientation and mental state, as evidenced by overt behaviors.
  8. "Grooming" means the process of tending to one's appearance. This may include, but is not limited to, combing or brushing hair, washing face and hands, shaving, routine nail care, oral hygiene (including denture care), and menstrual care. Grooming does not include aesthetics such as styling hair, skin care, and applying make-up.
  9. "Mobility" means the extent of the individual's purposeful movement within the residential environment.
  10. "Orientation" means the individual's awareness of one's self in relation to person, place, and time.
  11. "Physically disabled" means the inability to do any substantial gainful activity by reason of any medically determinable physical impairment which impairment can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.
  12. "Self-injurious behavior" means self-induced, abusive behavior that is directed toward infliction of immediate physical harm to the body.
  13. "Sensory" means of or relating to the senses.
  14. "Suicidal behavior" means an act or intent to voluntarily take one's own life.
  15. "Transferring" means the individual's ability to move horizontally or vertically between 2 surfaces within the residential environment, excluding transfer for toileting or bathing.
  16. "Wandering" means moving about with no rational purpose and with a tendency to go beyond physical parameters of the environment in a manner that may jeopardize safety.
- C. Developmentally disabled.** The following words and phrases, in addition to definitions contained in subsection (A), have the

following meanings for developmentally disabled individuals only:

1. "Aggression" means physically attacking another, including, but not limited to, throwing objects, punching, biting, pushing, pinching, pulling hair, and scratching.
2. "Ambulation" means the ability to walk and includes the quality of the ambulation and the degree of independence.
3. "Associating time with events and actions" means the individual's ability to associate regular events with specific timeframes.
4. "Bathing or showering" means the individual's ability to complete the bathing process including drawing the bath water, washing, rinsing, and drying all parts of the body, and washing the hair.
5. "Caregiver training" means a direct care staff or caregiver trained in special health care procedures normally performed or monitored by a licensed professional, such as a registered nurse. These procedures may include, but are not limited to, ostomy care, positioning for medical necessity, use of adaptive devices, or respiratory services such as suctioning or small volume nebulizer treatments.
6. "Clarity of communication" means the ability to speak in a recognizable language or use a formal symbolic substitution, such as American Sign Language.
7. "Climbing stairs or ramps" means the individual's ability to move up and down stairs or ramps.
8. "Crawling and standing" means the individual's ability to crawl and stand with or without support.
9. "Developmental milestone" means a measure of an individual's functional abilities including fine and gross motor skills, expressive and receptive language, social and self-help skills, and emotional/affective development.
10. "Dressing" means the ability to put on and remove articles of clothing and does not include braces nor does it reflect the individual's ability to match colors or choose clothing appropriate for the weather.
11. "Eating/drinking" means the process of putting food and fluids by any means into the digestive system.
12. "Expressive verbal communication" means the individual's ability to communicate thoughts verbally with words or sounds.
13. "Food preparation" means the ability to prepare simple meals.
14. "Hand use" means the ability to use the hands, or hand if the individual has only 1 hand or has the use of only 1 hand.
15. "Limited/occasional" means a small portion of an entire task or assistance required less than daily.
16. "Personal hygiene" means the process of tending to one's appearance. This may include, but is not limited to, combing or brushing hair, washing face and hands, shaving, routine nail care, oral hygiene (including denture care), and menstrual care. This does not include aesthetics such as styling hair, skin care, and applying make-up.
17. "Physical interruption" means immediate hands-on interaction to stop a behavior.
18. "Remembering instructions and demonstrations" means the individual's ability to recall instructions or demonstrations on how to complete specific tasks.
19. "Resistiveness/rebelliousness" means any inappropriate stubborn or uncooperative behaviors, excluding difficulties with processing of information or reasonable expressions of self-advocacy.



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20. "Rolling and sitting" means the individual's ability to roll and sit independently or with the physical support of another person or a device such as a pillow or specially designed chair.
21. "Running or wandering away" means leaving the situation or environment without either notifying or receiving permission from appropriate individuals as would normally be expected.
22. "Self-injurious behavior" means repeated behavior that causes injury and may include, but is not limited to, biting, scratching, putting inappropriate objects into ear, mouth, or nose, repeatedly picking at skin, head slapping, or banging.
23. "Verbal or physical threatening" means any behavior in which an individual verbally or physically threatens to harm self, others, or objects.
24. "Wheelchair mobility" means the individual's mobility using a wheelchair and does not include the ability to transfer to the wheelchair.

**R9-28-302. General Provisions**

- A. To qualify for services described in A.R.S. § 36-2939 under the Arizona Long-term Care System (ALTCS), an individual shall meet the criteria described in Article 4 and shall be determined to require care at the level of a nursing facility or an intermediate care facility for the mentally retarded (ICF-MR) in accordance with the preadmission screening (PAS) process described in this Article.
- B. An elderly or physically disabled (EPD) ALTCS individual shall be assessed using the PAS instrument prescribed in R9-28-303 with the exception of physically disabled children less than 6 years of age who shall be assessed using the PAS instrument prescribed in R9-28-304. A developmentally disabled (DD) ALTCS individual shall be assessed using the PAS instrument prescribed in R9-28-304 with the exception of a DD ALTCS individual in a nursing facility who shall be assessed using the PAS instrument prescribed in R9-28-303.
- C. The PAS instrument shall be completed by an assessor who is a registered nurse or a social worker, who shall have attended a minimum of 24 hours of classroom training for each type of preadmission screening (EPD and DD). In addition, the assessor shall have intensive oversight/mentoring for the 1st 30 days of employment, and ongoing oversight for the subsequent period of employment.
  1. For initial assessments of EPD individuals, the PAS instrument shall be completed by a registered nurse or by a social worker.
  2. For initial assessments of DD individuals, the PAS instrument shall be completed by a registered nurse or by a social worker.
  3. For initial assessments on hospitalized individuals, the PAS instrument shall be completed by a registered nurse or a team of a registered nurse and social worker.
  4. For initial assessments and reassessments of individuals who use a ventilator, the PAS instrument shall be completed by a team composed of a registered nurse and a social worker.
- D. Individuals classified as ventilator dependent, as specified in Section 1902(e)(9) of the Social Security Act, October 21, 1993, incorporated by reference and on file with the Office of the Secretary of State, shall be determined to require care that can only be provided at a nursing facility or ICF-MR level.
- E. Except as provided in subsection (I), the PAS assessment shall be conducted face-to-face with the individual by the assessor. The assessor shall make reasonable efforts to obtain available medical records. In addition, the assessor may obtain information for the PAS assessment from interviews with the individual, parent, guardian, caregivers, or others familiar with the individual's functional or medical conditions.
- F. Except as provided in subsections (K) and (L), the PAS assessment determines the individual's current need for long-term care.
- G. Using the information described in subsection (E), and using professional judgment based on education, training, and experience, the assessor shall complete the questions on the PAS instrument.
- H. Once the PAS instrument is completed, a PAS score is calculated. The calculated PAS score is compared to an established threshold score which is based on statistical analyses of the results of pilot studies completed prior to implementation. The threshold score represents the point at which an individual is determined to require care that can only be provided at the nursing facility or ICF-MR level except as provided in subsection (I). The scoring methodology and threshold scores are specified in R9-28-303 and R9-28-304.
- I. The Administration shall request that an AHCCCS physician consultant review an individual's file if:
  1. The EPD individual's score is less than the threshold specified in R9-28-303, but is not less than 56;
  2. The DD individual's score is less than the threshold specified in R9-28-304 but is not less than 38;
  3. Notwithstanding the fact that the individual scores below the threshold, the Administration determines in the course of the preadmission screening that it has reasonable cause to believe that the individual's unique functional abilities or medical condition are such that a physician review is necessary to determine if the items contained in the scored portions of the PAS instrument would indicate that the individual's condition necessitates the level of care provided in a nursing facility or intermediate care facility for the mentally retarded;
  4. The individual has a documented diagnosis as seriously mentally ill as defined in A.R.S. § 36-550, and the Administration determines that the applicant has no medical diagnosis that could necessitate the level of care provided in a nursing facility or intermediate care facility for the mentally retarded. This review can only result in a determination of ineligibility if the physician determines that despite a score at or above the threshold the applicant does not meet the requirements of A.R.S. § 36-2936.
- J. When conducting the review, the physician shall use the scored factors set out in the PAS instrument to determine whether the individual has a nonpsychiatric medical condition or has a developmental disability that, by itself or in combination with other medical conditions, necessitates the level of care which is provided in a nursing facility or intermediate care facility for the mentally retarded. The physician shall review the PAS instrument and available medical records. If the physician is unable to determine eligibility from the PAS instrument and available medical records, the physician may conduct a face-to-face review with the individual or contact others familiar with the individual's needs, including primary care physicians or other caregivers. If the reviewing physician recommends overturning the eligibility determination of the initial assessor, the physician shall state the reasons for that decision in the comments section of the instrument.
- K. For initial assessments of individuals who are in a hospital or an intensive rehabilitation facility and for whom discharge is planned within 7 days, a PAS assessment shall be performed and medical eligibility determined. For individuals where discharge is not planned within 7 days, a PAS assessment shall not be done. Such individuals shall be denied for ALTCS. Their records shall be forwarded to the Department of Economic

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Security for an AHCCCS acute care eligibility determination after the Administration determines whether their income is equal to or less than the Supplemental Security Benefit amount in effect, or shall be evaluated by the Administration for an acute care only determination, whichever is appropriate, depending on the age and disability of the individuals.

- L.** Upon request, the Administration shall conduct a PAS assessment to determine whether an individual, who has been in a nursing or ICF-MR facility within the 3 months prior to the month of application, is entitled to receive retroactive benefits for that prior 3-month period.
- M.** Upon request, the Administration shall conduct a PAS assessment to determine whether a deceased individual, who had been in a nursing facility or ICF-MR during the months covered by the application, would have been eligible to receive ALTCS benefits for those months.

**R9-28-303. Reassessment**

- A.** All ALTCS members shall be reassessed to determine continued need for ALTCS services. The criteria for continued qualification for ALTCS services shall be the same as those used for initial preadmission screening.
- B.** Reassessment may occur in any of the following forms:
1. Audit of the preadmission screening results by the Administration;
  2. Periodic reassessment by the Administration;
  3. Inspection of care conducted by the Administration. This applies only to care provided in ICF-MRs and IMDs.
- C.** All ALTCS members residing in a nursing facility shall receive at a minimum a quarterly resident assessment.

**R9-28-303. Preadmission Screening for the Elderly and Physically Disabled**

- A.** The PAS instrument for the elderly and physically disabled includes 4 major categories: intake information, functional assessment, emotional and cognitive functioning, and medical assessment.
1. The intake information category solicits information on the individual's demographic background. No components of the intake information category are included in the calculated PAS score.
  2. The functional assessment category solicits information on the individual's:
    - a. Need for assistance with activities of daily living, including bathing, dressing, grooming, eating, mobility, transfer, and toileting in the residential environment or other routine setting;
    - b. Communication and sensory skills, including hearing, expressive communication, and vision; and
    - c. Continence, including bowel and bladder functioning. A history of transitory incontinence caused by an acute or temporary condition or illness shall not be considered for rating.
    - d. Some questions in the activities of daily living, communication and sensory skills, and continence sections are scored, as indicated in subsection (C), under the Functional Assessment matrices.
  3. The emotional and cognitive functioning category solicits information on the individual's:
    - a. Orientation to person, place, and time; and
    - b. Behavior, including wandering, self-injurious behavior, aggression, suicidal behavior, and disruptive behavior. Some questions in the behavior section refer to intervention and medical attention. Intervention is therapeutic treatment, including the use of medication and physical restraints to control the behavior. Intervention may be formal or informal

and includes actions taken by friends/family to control the behavior. Medical attention is an examination by a physician and/or primary care provider and treatment if necessary.

- c. All questions in the orientation and behavior sections are scored, as indicated in subsection (C), under the Functional Assessment matrices.
- 4.** The medical assessment category solicits information on the individual's:
- a. Medical conditions and the medical condition's impact on the individual's ability to independently perform activities of daily living or whether such conditions require medical or nursing treatments;
  - b. Medications, treatments, and allergies; and
  - c. Specific services and treatments that the individual receives or needs and the frequency of those services and treatments.
  - d. Additional information captured in the medical assessment category includes a description of the individual's physical characteristics, hospital history, ventilator dependency, and current placement.
  - e. Some questions in the medical conditions and services and treatments sections are scored, as indicated in subsection (C), under the Medical Assessment matrices.
- B.** The PAS instrument for the elderly and physically disabled, October 1992, is incorporated by reference and is on file with the Office of the Secretary of State. Once the PAS instrument is completed, the answers selected by the assessor are used to calculate 3 scores: a functional score, a medical score, and a total score.
1. **Functional score.**
    - a. The functional score is based on answers to scored questions in the functional assessment and emotional and cognitive functioning categories. Each answer is assigned a certain number of points. For each scored question, the number of points is multiplied by a weighted numerical value, resulting in a weighted score for each question. The weighted numerical values are based on statistical analyses of pilot study results and reflect the importance of information on the PAS instrument in predicting whether the individual meets the criteria of A.R.S. § 36-2936.
    - b. It is the sum of the weighted scores that equals the functional score. The weighted score per question can range from 0 to 15. The maximum functional score attainable by an individual is 141. There is no minimum functional score that needs to be attained except as prescribed in subsections (B)(3)(b) and (c).
  2. **Medical score.**
    - a. The EPD population is divided into 2 groups for purposes of calculating the medical score. The primary distinction between the 2 groups is based on the differences in medical needs.
    - b. Group 1 includes individuals diagnosed with paralysis, head trauma, multiple sclerosis, amyotrophic lateral sclerosis, or Parkinson's disease which either impacts the individual's ability to independently perform activities of daily living or requires nursing services or treatments.
    - c. Group 2 includes individuals diagnosed with Alzheimer's disease, dementia, or an organic brain syndrome which either impacts the individual's ability to independently perform activities of daily living or



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requires nursing services and treatments. If an individual does not meet 1 of these criteria, the individual is considered to be in Group 1.

d. Scoring methodology: Group individuals

i. The medical score is based on information obtained from the medical conditions and the services and treatments sections of the PAS instrument.

ii. Each response to a scored item in the medical assessment category is assigned a certain number of points, ranging from 0 to 4 points per item.

iii. It is the sum of the points that equals the medical score, with a maximum score of 63. There is no minimum medical score that needs to be attained, except as prescribed in subsection (B)(3)(b).

e. Group 2 individuals.

i. The medical score is based on information obtained from the services and treatments section of the PAS instrument.

ii. Each response to a scored item in the medical assessment category is assigned a certain number of points, ranging from 0 to 16 points per item.

iii. It is the sum of the points that equals the medical score, with a maximum score of 42. There is no minimum medical score that needs to be attained, except as prescribed in subsection (B)(3)(c).

3. The calculation of the total score is equal to the sum of the functional and medical scores.

a. The total score is compared to an established threshold score. For all EPD individuals, regardless of whether the individual is in Group 1 or in Group 2, the threshold score is 60. Thus, an individual with a total score equal to or greater than 60 is deemed to require care that can only be provided at the nursing facility or ICF-MR level.

b. If an individual is in Group 1 and has a total score less than 60, a functional score equal to or greater than 30 and a medical score equal to or greater than 13, the individual also is deemed to require care that can only be provided at the nursing facility or ICF-MR level.

c. If an individual is in Group 2 and has a total score less than 60:

i. A functional score equal to or greater than 30 and the weighted score from the orientation section is equal to or greater than 5, the individual also is deemed to require care that can only be provided at the nursing facility or ICF-MR level; or

ii. A functional score equal to or greater than 30 and the individual is assigned at least 2 points for any 1 question in the behavior section, the individual also is deemed to require care that can only be provided at the nursing facility or ICF-MR level.

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C. The following tables represent the number of points available and the weight for each scored question.

Functional Assessment	# of Points Available Per Question (P)	Weight (W)	Range of Possible Weighted Score per Question <sup>1</sup> (P)x(W)
<b>Activities of Daily Living Section</b>			
Bathing, Dressing, Grooming, Mobility, Toileting	0-5	3.00	0-15
Eating	0-6	2.50	0-15
Transfer	0-4	3.75	0-15
<b>Continence Section</b>			
Bowel	0-2	0	0
	3	.167	.5
Bladder	0-4	0.50	0-2
<b>Sensory Section</b>			
Vision	0-1	0	0
	2	1.75	3.5
	3	1.167	3.5
<b>Orientation Section</b>			
Person, Place, Time	0-3	1.00	0-3

1. The lowest value in the range of points available per question in the functional assessment category indicates minimal or no impairment and, conversely, the highest value indicates severe impairment.

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<u>Functional Assessment</u> <u>(continued)</u>	<u># of Points</u> <u>Available Per Question</u> <u>(P)</u>	<u>Weight</u> <u>(W)</u>	<u>Range of Possible Weighted</u> <u>Score Per Question</u> <u>(P)(XW)</u>
<b>Emotional/Cognitive Behavior Section</b>			
Aggression, Self-Injurious, Suicidal, Wandering Disruptive	0-3 0-3	1.00 3.00	0-3 0-9
<b>Medical Assessment</b> <b>Group 1</b>			
	<u># of Points</u> <u>Available Per Question</u> <u>(P)</u>	<u>Weight</u> <u>(W)</u>	<u>Range of Possible Weighted</u> <u>Score Per Question</u> <u>(P)(XW)</u>
<b>Medical Conditions Section</b>			
Paralysis/Sclerosis	0-1	3.00	0-3
Alzheimers/OBS/Dementia	0-1	3.50	0-3.5
<b>Services and Treatments Section</b>			
Physical Therapy, Occupational Therapy, Speech Therapy	0-1	0.50	0-1.5
Suctioning, Oxygen, Small Volume Nebulizer, Tracheostomy Care, Postural Drainage, Respiratory Therapy	0-1	1.5	0 or 1.5

1. The lowest value in the range of points available per question in the functional assessment category indicates minimal or no impairment and, conversely, the highest value indicates severe impairment.

2. The lowest value in the range of points available per question in the medical assessment category, 0, indicates that the individual does not have the medical condition or does not need or receive the medical or nursing service treatment. Conversely, the highest value, 1, indicates that the individual does have the medical condition or does need or receive the medical or nursing service or treatment.

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<u>Medical Assessment</u> <u>Group 1</u> <u>(continued)</u>	<u># of Points Available</u> <u>per Question</u> <u>(P)</u>	<u>Weight</u> <u>(W)</u>	<u>Range of Possible</u> <u>Weighted Score Per</u> <u>Question<sup>1</sup></u> <u>(P)x(W)</u>
<b>Services and Treatments Section (continued)</b>			
<u>Drug Regulation</u>	0-1	2.00	0 or 2
<u>Decubitus Care, Wound Care, Ostomy Care, Feedings-Tube and/or</u> <u>Parenteral, Catheter Care, Other Ostomy Care, Dialysis, Fluid</u> <u>Intake/Output</u>	0-1	3.00	0 or 3
<u>Teaching/Training Program, Bowel/Bladder Program, Range of Motion,</u> <u>Other Rehabilitative Nursing, Restraints</u>	0-1	4.00	0 or 4
<b>Medical Assessment</b> <b>Group 2</b>			
<u>Drug Regulation</u>	0-1	2.00	0 or 2
<u>Teaching/Training Program, Bowel/Bladder Program, Range of Motion,</u> <u>Other Rehabilitative Nursing</u>	0-1	6.00	0 or 6
<u>Restraints (Physical/Chemical)</u>	0-1	16.00	0 or 16

1. The lowest value in the range of points available per question in the medical assessment category, 0, indicates that the individual does not have the medical condition or does not need or receive the medical or nursing service treatment. Conversely, the highest value, 1, indicates that the individual does have the medical condition or does need or receive the medical or nursing service or treatment.

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**R9-28-304. Preadmission Screening of the Developmentally Disabled**

**A.** The Administration shall conduct preadmission screening of developmentally disabled individuals using 1 of 4 PAS instruments specifically designed to assess individuals in the following age groups: individuals 12 years of age and older; children 6 to 11 years of age; children 3 to 5 years of age; and children under 3 years of age.

**1.** The PAS instruments for developmentally disabled individuals include 3 major categories: intake information, functional assessment, and medical assessment.

**a.** The intake information category solicits information on the individual's demographic background. No components of the intake information category are scored.

**b.** The functional assessment category differs by age group, as indicated in subsection (A)(1)(c) through (8) below:

**c.** For individuals 12 years of age and older, the functional assessment category solicits information on the individual's:

**i.** Need for assistance with independent living skills, including hand use, ambulation, wheelchair mobility, transfer, eating/drinking, dressing, personal hygiene, bathing or showering, food preparation, community mobility, and toileting.

**ii.** Communication skills and cognitive abilities, including expressive verbal communication, clarity of communication, associating time with events and actions, and remembering instructions and demonstrations;

**iii.** Behavior, including aggression, verbal, or physical threatening behavior, self injurious behavior, and resistive/rebellious behavior.

**iv.** All questions in the behavior section are scored for individuals 12 years of age and older. Some questions in the independent living skills, and communication skills and cognitive abilities sections are scored, as indicated in subsection (C), under the Functional Assessment matrix.

**d.** For individuals 6 through 11 years of age, the functional assessment category solicits information on the individual's:

**i.** Need for assistance with independent living skills, including rolling and sitting, crawling and standing, ambulation, climbing stairs or ramps, wheelchair mobility, dressing, personal hygiene, bathing or showering and toileting, level of bladder control, and orientation to familiar settings.

**ii.** Communication, including expressive verbal communication and clarity of communication.

**iii.** Behavior, including aggression, verbal or physical threatening behavior, self-injurious behavior, running or wandering away, and disruptive behavior.

**iv.** All questions in the communication section are scored for individuals 6 years of age up to 12 years of age. Some questions in the independent living skills and behavior sections are scored, as indicated in subsection (C), under the Functional Assessment matrices.

**e.** For individuals 3 through 5 years of age, the functional assessment category solicits information on the individual's:

**i.** Status with respect to a series of developmental milestones, including 50 factors that measure the individual's degree of functional growth;

**ii.** Need for assistance with independent living skills, including toileting and dressing, and the individual's orientation to familiar settings.

**iii.** Communication, including clarity of communication;

**iv.** Behavior, including aggression, verbal or physical threatening behavior, and self-injurious behavior;

**v.** All questions in the developmental milestones and behavior section are scored for individuals 3 through 5 years of age. Some questions in the independent living skills section are scored, as indicated in subsection (C), under the Functional Assessment matrix. No questions in the communication section are scored.

**f.** Six months of age up to 3 years of age.

**i.** For individuals 6 months of age and up to 3 years of age, the functional assessment category solicits information on the individual's degree of functional growth using age specific factors.

**ii.** All questions regarding specific factors measuring the degree of functional growth are scored for individuals 6 months of age up to 3 years of age.

**g.** For individuals less than 6 months of age, a functional assessment is not completed.

**h.** The medical assessment category solicits information on the individual's:

**i.** Medical conditions;

**ii.** Specific services and treatments the individual receives or needs and the frequency of those services and treatments; and

**iii.** Current medications and treatments, medical stability, sensory functioning, and physical measurements.

**iv.** Additional information captured in the medical assessment category includes the individual's current placement, ventilator dependency, and developmentally disabled status, as determined by the Department of Economic Security.

**i.** Medical assessment scoring.

**i.** For individuals 12 years of age and older, some questions in the medical conditions section are scored, as indicated in subsection (C), under the Medical Assessment matrix.

**ii.** For individuals 6 years of age up to 12 years of age, some questions in the medical conditions section are scored, as indicated in subsection (C), under the Medical Assessment matrix.

**iii.** For individuals 3 years of age up to 6 years of age, some questions in the medical conditions and medical stability sections are scored, as indicated in subsection (C), under the Medical Assessment matrix.

**iv.** For individuals 6 months of age up to 3 years of age, some questions in the medical conditions, services and treatments and medical stability sections are scored, as indicated in subsection (C), under the Medical Assessment matrix.

**v.** For individuals less than 6 months of age, a medical assessment is completed; however, no questions are scored. These individuals are

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referred for physician review.

- B.** The PAS instruments for the developmentally disabled, August 1995, are incorporated by reference and are on file with the Office of the Secretary of State. When the PAS instrument is completed, the answers selected by the assessor are used to calculate 3 scores: a functional score, a medical score, and a total score.

**1.** Functional score.

- a.** The functional score is based on answers to scored questions in the functional assessment category. Each answer is assigned a certain number of points. For each scored question, the number of points is multiplied by a weighted numerical value resulting in a weighted score for each question. The weighted numerical values are based on statistical analyses of the results of pilot studies completed prior to implementation and reflect the importance of information on the PAS instrument in predicting whether the individual meets the criteria of A.R.S. § 36-2936.

- b.** It is the sum of the weighted scores that equals the functional score. The range of weighted score per question and maximum functional score for each age group is presented below:

<u>AGE GROUP</u>	<u>RANGE FOR WEIGHTED SCORE PER QUESTION</u>	<u>MAXIMUM FUNCTIONAL SCORE ATTAINABLE</u>
<u>12+</u>	<u>0 - 11.2</u>	<u>118.9</u>
<u>6 - 11</u>	<u>0 - 24.0</u>	<u>127.0</u>
<u>3 - 5</u>	<u>0 - 15.6</u>	<u>78.2</u>

0 - 2                      0 - 1.4                      70.0

- c.** There is no minimum functional score that needs to be attained.

**2.** Medical score.

- a.** The medical score is based on information obtained in the medical assessment category. Each response to a scored item is assigned a certain number of points. It is the sum of the points that equals the medical score. The range of points per item and the maximum medical score attainable by an individual is presented below:

<u>AGE GROUP</u>	<u>RANGE OF POINTS PER ITEM</u>	<u>MAXIMUM MEDICAL SCORE ATTAINABLE</u>
<u>12+</u>	<u>0 - 20.6</u>	<u>21.4</u>
<u>6 - 11</u>	<u>0 - 2.5</u>	<u>5.0</u>
<u>3 - 5</u>	<u>0 - 14.8</u>	<u>23.0</u>
<u>0 - 2</u>	<u>0 - 7.0</u>	<u>44.3</u>

- b.** There is no minimum medical score that needs to be attained.

**3.** The calculation of the total score is equal to the sum of the functional and medical scores.

- a.** The total score is compared to an established threshold score. For all DD individuals the threshold score is 40. Thus, an individual with a total score equal to or greater than 40 is deemed to require care that can only be provided at the nursing facility or ICF-MR level.



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C. The following tables represent the number of points available and the weight for each scored question.

<u>AGE GROUP 12 AND OLDER</u> <u>Functional Assessment</u>	<u># of Points Available</u> <u>Per Question<sup>2</sup></u>	<u>Weight</u>	<u>Scale<sup>1</sup></u>	
			<u>If total # of points for</u> <u>section is<sup>2</sup></u>	<u>Then weight is</u>
<u>Independent Living Skills Section</u>				
<u>Hand Use, Food Preparation</u>	<u>0-3</u>	<u>3.50</u>	<u>N/A</u>	<u>N/A</u>
<u>Ambulation, Eating, Dressing, Personal Hygiene</u>	<u>0-4</u>	<u>2.80</u>	<u>N/A</u>	<u>N/A</u>
<u>Toileting</u>	<u>0-4</u>	<u>1.50</u>	<u>N/A</u>	<u>N/A</u>
<u>Communicative Skills and Cognitive Abilities Section</u>				
<u>Associating Time, Remembering Instructions</u>	<u>0-3</u>	<u>0.50</u>	<u>N/A</u>	<u>N/A</u>
<u>Behavior Section</u>				
<u>Aggression, Threatening, Self Injurious</u>	<u>0-4</u>	<u>2.8</u>	<u>N/A</u>	<u>N/A</u>
<u>Resistive</u>	<u>0-3</u>	<u>3.5</u>	<u>N/A</u>	<u>N/A</u>

<sup>1</sup> Certain scored questions do not have a weight and thus are not to be multiplied by the number of points. For these questions, an N/A is shown in the weight column and the information in the scale column is applicable. When using a scale, the number of points for the section equals the sum of the number of points for the scored questions in that section.

<sup>2</sup> The lowest value in the range of points available per question in the functional assessment category indicates minimal to no impairment and, conversely, the highest value indicates severe impairment.

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<u>AGE GROUP 12 AND OLDER</u>  <u>Medical Assessment</u>	<u># of Points Available Per Question<sup>3</sup></u>	<u>Weight</u>	<u>Scale<sup>1</sup></u>	
			<u>If total # of points for section is<sup>3</sup></u>	<u>Then weight is</u>
<u>Medical Conditions Section</u>				
<u>Cerebral Palsy, Epilepsy</u>	<u>0-1</u>	<u>0.40</u>	<u>N/A</u>	<u>N/A</u>
<u>Moderate, Severe, Profound Mental Retardation</u>	<u>0-1</u>	<u>20.60</u>	<u>N/A</u>	<u>N/A</u>

<sup>1</sup> Certain scored questions do not have a weight and thus are not to be multiplied by the number of points. For these questions, an N/A is shown in the weight column and the information in the scale column is applicable. When using a scale, the number of points for the section equals the sum of the number of points for the scored questions in that section.

<sup>3</sup> The lowest value in the range of points available per question in the medical assessment category, 0, indicates that the individual does not have the medical condition or does not need or receive the medical or nursing service or treatment. Conversely, the highest value, 1, indicates that the individual does have the medical condition or does need or receive the medical or nursing service or treatment.

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<u>AGE GROUP 6-11</u> <u>Functional Assessment</u>	<u># of Points Available</u> <u>Per Question<sup>2</sup></u>	<u>Weight</u>	<u>Scale<sup>1</sup></u>	
			<u>If total # of points for</u> <u>section is<sup>2</sup></u>	<u>Then weight is</u>
<u>Independent Living Skills Section</u>				
<u>Climbing Stairs, Wheelchair Mobility, Bladder Control</u>	<u>0-3</u>	<u>1.875</u>	<u>N/A</u>	<u>N/A</u>
<u>Ambulation, Dressing, Bathing, Toileting</u>	<u>0-4</u>	<u>1.50</u>	<u>N/A</u>	<u>N/A</u>
<u>Crawling/Standing</u>	<u>0-5</u>	<u>1.14</u>	<u>N/A</u>	<u>N/A</u>
<u>Rolling/Sitting</u>	<u>0-8</u>	<u>0.833</u>	<u>N/A</u>	<u>N/A</u>
<u>Communication Section</u>				
<u>Clarity</u>	<u>0-4</u>	<u>1.50</u>	<u>N/A</u>	<u>N/A</u>
<u>Expressive Communication</u>	<u>0-5</u>	<u>4.25</u>	<u>N/A</u>	<u>N/A</u>
<u>Behavior Section</u>				
<u>Wandering</u>	<u>0-4</u>	<u>6.00</u>	<u>N/A</u>	<u>N/A</u>
<u>Disruptive</u>	<u>0-3</u>	<u>7.50</u>	<u>N/A</u>	<u>N/A</u>

<sup>1</sup> Certain scored questions do not have a weight and thus are not to be multiplied by the number of points. For these questions, an N/A is shown in the weight column and the information in the scale column is applicable. When using a scale, the number of points for the section equals the sum of the number of points for the scored questions in that section.

<sup>2</sup> The lowest value in the range of points available per question in the functional assessment category indicates minimal to no impairment and, conversely, the highest value indicates severe impairment.

<u>AGE GROUP 6 - 11</u> <u>Medical Assessment</u>	<u># of Points Available</u> <u>Per Question<sup>3</sup></u>	<u>Weight</u>	<u>Scale<sup>1</sup></u>

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				If total # of points for section is <sup>3</sup>	Then weight is
<u>Medical Conditions Section</u>					
Cerebral Palsy, Epilepsy	0-1	2.50	N/A	N/A	N/A
<u>AGE GROUP 3-5</u>					
<u>Functional Assessment</u>	<u># of Points Available Per Question<sup>2</sup></u>	<u>Weight</u>		<u>Scale<sup>1</sup></u>	<u>Then weight is</u>
				<u>If total # of points for section is<sup>2</sup></u>	
<u>Developmental Milestones Section</u>					
<u>Factors Measuring an Individual's Degree of Functional Growth</u>	0-1	0.70	N/A	N/A	N/A
<u>Independent Living Skills Section</u>					
<u>Toileting, Dressing</u>	0-4	3.90	N/A	N/A	N/A
<u>Behavior Section</u>					
<u>Aggression, Threatening, Self Injurious</u>	0-4	1.00	N/A	N/A	N/A

<sup>1</sup> Certain scored questions do not have a weight and thus are not to be multiplied by the number of points. For these questions, an N/A is shown in the weight column and the information in the scale column is applicable. When using a scale, the number of points for the section equals the sum of the number of points for the scored questions in that section.

<sup>2</sup> The lowest value in the range of points available per question in the functional assessment category indicates minimal to no impairment and, conversely, the highest value indicates severe impairment.

<sup>3</sup> The lowest value in the range of points available per question in the medical assessment category, 0, indicates that the individual does not have the medical condition or does not need or receive the medical or nursing service or treatment. Conversely, the highest value, 1, indicates that the individual does have the medical condition or does need or receive the medical or nursing service or treatment.

<u>AGE GROUP 3 - 5</u>	<u># of Points Available Per Question<sup>3</sup></u>	<u>Weight</u>	<u>Scale<sup>1</sup></u>	<u>Then weight is</u>
<u>Medical Assessment</u>				<u>If total # of points for</u>

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				<u>section is<sup>3</sup></u>
<b><u>Medical Conditions Section</u></b>				
Moderate, Severe, Profound Mental Retardation	0-1	14.80	N/A	N/A
<b><u>Medical Stability Section</u></b>				
Direct Caregiver Required, Special Diet	0-1	4.10	N/A	N/A

<sup>1</sup> Certain scored questions do not have a weight and thus are not to be multiplied by the number of points. For these questions, an N/A is shown in the weight column and the information in the scale column is applicable. When using a scale, the number of points for the section equals the sum of the number of points for the scored questions in that section.

<sup>3</sup> The lowest value in the range of points available per question in the medical assessment category, 0, indicates that the individual does not have the medical condition or does not need or receive the medical or nursing service or treatment. Conversely, the highest value, 1, indicates that the individual does have the medical condition or does need or receive the medical or nursing service or treatment.

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<u>AGE GROUP 0-2</u>		<u># of Points Available Per Question<sup>2</sup></u>	<u>Weight</u>	<u>Scale<sup>1</sup></u>	
<u>Functional Assessment</u>				<u>If total # of points for section is<sup>2</sup></u>	<u>Then weight is</u>
<u>Developmental Milestones Section</u>					
<u>Factors Measuring an Individual's Degree of Functional Growth</u>		<u>0-1</u>	<u>1.40</u>	<u>N/A</u>	<u>N/A</u>
<u>AGE GROUP 0-2</u>		<u># of Points Available Per Question<sup>3</sup></u>	<u>Weight</u>	<u>Scale<sup>1</sup></u>	
<u>Medical Assessment</u>				<u>If total # of points for section is<sup>3</sup></u>	<u>Then weight is</u>
<u>Services and Treatments Section</u>					
<u>Non-Bladder/Bowel Ostomy, Tube Feeding, Oxygen</u>		<u>0-1</u>	<u>6.10</u>	<u>N/A</u>	<u>N/A</u>
<u>Medical Conditions Section</u>					
<u>Any Mental Retardation, Epilepsy, Cerebral Palsy</u>		<u>0-1</u>	<u>7.00</u>	<u>N/A</u>	<u>N/A</u>
<u>Medical Stability Section</u>					
<u>Trained Direct Caregiver, Special Diet or a Minimum of Two Hospitalizations</u>		<u>0-1</u>	<u>5.00</u>	<u>N/A</u>	<u>N/A</u>

<sup>1</sup> Certain scored questions do not have a weight and thus are not to be multiplied by the number of points. For these questions, an N/A is shown in the weight column and the information in the scale column is applicable. When using a scale, the number of points for the section equals the sum of the number of points for the scored questions in that section.

<sup>2</sup> The lowest value in the range of points available per question in the functional assessment category indicates minimal to no impairment and, conversely, the highest value indicates severe impairment.

<sup>3</sup> The lowest value in the range of points available per question in the medical assessment category, 0, indicates that the individual does not have the medical condition or does not need or receive the medical or nursing service or treatment. Conversely, the highest value, 1, indicates that the individual does have the medical condition or does need or receive the medical or nursing service or treatment.



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**R9-28-305.      Reassessments**

- A.** All ALTCS members shall be reassessed to determine continued need for ALTCS services. The criteria for continued qualification for ALTCS services shall be the same as those used for the initial preadmission screening as prescribed in R9-28-302, R9-28-303, and R9-28-304.
- B.** Reassessments shall be completed by 1 or more individuals as provided in R9-28-302(C).
- C.** Reassessment by the Administration shall occur as follows:
- 1.** Annually, except in the following circumstances:
    - a.** Elderly and physically disabled (EPD) individuals 80 years of age and older who have been ALTCS eligible for 2 consecutive years shall be reassessed every other year;
    - b.** EPD individuals diagnosed with Alzheimer's disease, dementia, or an organic brain syndrome and who have been ALTCS eligible for 2 consecutive years shall be reassessed every other year.

- c. In addition, the Administration may identify other EPD and developmentally disabled population groups within the ALTCS program that would have a reassessment period greater than 1 year;
2. In connection with routine audit of the preadmission screening by the Administration in which errors affecting eligibility are discovered;
3. In connection with an audit of the preadmission screening requested by a nursing facility, program contractor, case manager, or other party where the Administration has determined that continued eligibility is uncertain due to substantial evidence of a change in the member's circumstances or error in the preadmission screening;
4. At the request of the Administration's physician consultant.

## NOTICE OF PROPOSED RULEMAKING

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

## CHAPTER 4. BANKING DEPARTMENT

## **PREAMBLE**

### **1. Sections Affected**

R20-4-203  
R20-4-204  
R20-4-212  
R20-4-305  
R20-4-306  
R20-4-307  
R20-4-308  
R20-4-312  
R20-4-314  
R20-4-315  
R20-4-316  
R20-4-319  
R20-4-320  
R20-4-321  
R20-4-323  
R20-4-329  
R20-4-331  
R20-4-501  
R20-4-505  
R20-4-507  
R20-4-509  
R20-4-510  
R20-4-511  
R20-4-513  
R20-4-514  
R20-4-515  
R20-4-517  
R20-4-522  
R20-4-523  
R20-4-527  
R20-4-528  
R20-4-531  
R20-4-601  
R20-4-609  
R20-4-610

### Rulemaking Action

[illegible]

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2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statute: A.R.S. § 6-123  
Implementing statutes: A.R.S. §§ 6-122, 6-123, 6-124, 6-225, 6-271, 6-409, 6-411, 6-421, 6-423, 6-441, 6-442, 6-445, 6-451, 6-473, 6-474, 6-477, 6-478, 6-603, 6-604, 6-605, 6-607, 6-611, 6-616, 6-617, 6-625, 6-626, 6-628, 6-651, 6-653, 6-654, 6-656, 6-701, 6-709, 20-1611
3. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**  
Name: Fred Witte  
Address: Banking Department  
2910 North 44th St., #310  
Phoenix, Arizona 85018  
Telephone: (602) 255-4421 ext. 122  
Fax: (602) 381-1225
4. **An explanation of the rule, including the agency's reasons for initiating the rule:**  
As a result of the Department's 5-year-rule review the Department is proposing to repeal antiquated rules that do not reflect the current policy and practice.
5. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable.
6. **The preliminary summary of the economic, small business, and consumer impact:**  
The repeal of these rules will benefit the public by eliminating obsolete rules which no longer serve their intended purpose. The Department will incur the costs associated with the rulemaking process. Businesses are not expected to incur an expense in the repeal of these rules.
7. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**  
Name: Fred Witte  
Address: Banking Department  
2910 North 44th St., #310  
Phoenix, Arizona 85018  
Telephone: (602) 255-4421, ext. 122  
Fax: (602) 381-1225
8. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**  
The Department has not scheduled any oral proceedings. Written comments on the proposed rules or preliminary economic, small business, and consumer impact statements may be submitted to the person listed above. Pursuant to A.R.S. § 41-1023(C), the Department will schedule oral proceedings if 5 or more people file written requests for oral proceedings within 30 days after this publication of this notice.
9. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable.
10. **Incorporation by reference and their location in the rules:**  
None
11. **The full text of the rules follows:**

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 4. BANKING DEPARTMENT**

**ARTICLE 2. BANK ORGANIZATION AND REGULATION**

Section	
R20-4-203:	Reports of Condition — A.R.S. § 6-123
R20-4-204:	Report of Income and Expense — A.R.S. § 6-123
R20-4-212:	Legal Reserved — A.R.S. § 6-271

**ARTICLE 3. SAVINGS AND LOAN ASSOCIATIONS**

Section	
R20-4-305:	Formal Hearing on Application to Organize — A.R.S. § 6-409
R20-4-306:	Subscription of Capital Forms — A.R.S. § 6-411(1)
R20-4-307:	Formal Hearing on Communication with Members — A.R.S. § 6-421
R20-4-308:	Required Audit Information — A.R.S. § 6-477

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- R20-4-312. ~~Loans to Finance Acquisition and Development of Land—A.R.S. § 6-445~~  
R20-4-314. ~~Variable Rate Certificate Account—A.R.S. §§ 6-423(4)(c), 6-442(B)(4), 6-473~~  
R20-4-315. ~~Reserve Allocation—A.R.S. §§ 6-441(A), 6-473, 6-474~~  
R20-4-316. ~~Determination Date—A.R.S. § 6-123~~  
R20-4-319. ~~Dividends—A.R.S. § 6-442(B)(4)~~  
R20-4-320. ~~Accounting Practices—A.R.S. § 6-474~~  
R20-4-321. ~~Financial and other Reports—A.R.S. § 6-478~~  
R20-4-322. ~~Branch Application Hearings—A.R.S. § 6-123~~  
R20-4-329. ~~Reports of Condition—A.R.S. § 6-123~~  
R20-4-331. ~~Approved Sales with Recourse—§ 6-451~~

**ARTICLE 5. SMALL LOANS**

- Section  
R20-4-501. ~~Time Periods for Computing Loan Charges—A.R.S. §§ 6-625, 6-626~~  
R20-4-505. ~~Charges for First Installment Period Pay-off—A.R.S. § 6-626~~  
R20-4-507. ~~Refund Due for Full Loan Prepayment—A.R.S. § 6-626~~  
R20-4-509. ~~Refunds to be Computed on Total Charges—A.R.S. §§ 6-626, 20-1611~~  
R20-4-510. ~~Prepayment Before Third Installment Date—A.R.S. §§ 6-625, 6-626~~  
R20-4-511. ~~Prepayment On or After the Third Installment Date—A.R.S. §§ 6-625, 6-626~~  
R20-4-513. ~~Definition: Default—A.R.S. § 6-626~~  
R20-4-514. ~~Default Charge—A.R.S. § 6-626~~  
R20-4-515. ~~Computation of Default Charges—A.R.S. § 6-626~~  
R20-4-517. ~~Deferred Payments—A.R.S. § 6-626~~  
R20-4-522. ~~Consistent or Frequent Extensions—A.R.S. §§ 6-603, 6-605, 6-607, 6-628~~  
R20-4-523. ~~Refund Chart—A.R.S. § 6-626~~  
R20-4-527. ~~Report of Sales Without Foreclosure Proceedings—A.R.S. §§ 6-616, 6-617, 6-122, 6-124~~  
R20-4-528. ~~Discontinuance of Business—A.R.S. § 6-611~~  
R20-4-531. ~~Charges for Real Estate Loans—A.R.S. §§ 6-604, 6-628, 6-225~~

**ARTICLE 6. DEBT MANAGEMENT COMPANIES**

- Section  
R20-4-601. ~~Definitions~~  
R20-4-609. ~~Articles of Incorporation; By-laws; Governing Document~~  
R20-4-610. ~~Change of Business Location~~

**ARTICLE 2. BANK ORGANIZATION AND REGULATION**

- R20-4-203. ~~Reports of Condition—A.R.S. § 6-123~~  
A. ~~Every bank shall make to the Superintendent not less than 3 reports of condition each year on forms furnished by the Superintendent. Each report shall be verified by the oath of the president, vice-president, or cashier of the bank and attested to by not less than 3 directors. The date specified by the Superintendent shall be the date designated by the officer of the United States authorized to make the call for reports of national banking associations.~~  
B. ~~The report shall show the financial condition of the bank at the close of business on the date specified.~~  
C. ~~The report shall be transmitted to the Superintendent within 30 days after the receipt of a request therefor, unless a shorter time is designated in the request.~~

D. ~~At the same time, the report required in A.R.S. § 6-353(b) shall be submitted: . . . a report of the obligations to the bank of each director and officer outstanding at the date of the report of condition; if the aggregate obligations of such person, exclusive of obligations outstanding in the regular process of bank collection transactions, exceeds the lesser of \$50,000 or 1% of the capital account of the bank.~~

**R20-4-204. Report of Income and Expense—A.R.S. § 6-123**

- A. ~~Every bank shall make to the Superintendent at least 1 report of income and expense each year on forms furnished by the Superintendent. Each report shall be verified by the oath of the president, vice-president or cashier of the bank.~~  
B. ~~The report shall be transmitted to the Superintendent within 30 days after the receipt of a request therefor, unless a shorter time is designated in the request.~~

**R20-4-212. Legal Reserved—A.R.S. § 6-271**

~~Each bank, not a member of the Federal Reserve System, shall maintain legal reserved equal to the following percentages of the average daily net deposits for a 14-day period computed on the basis of gross deposits less such deposits as are lawfully secured and each deposit balance due to another bank to the extent of a reciprocal deposit due from such other bank:~~

- ~~1. With respect to demand deposits—0%.~~
- ~~2. With respect to time and savings deposits—0%.~~

**ARTICLE 3. SAVINGS AND LOAN ASSOCIATIONS**

**R20-4-305. Formal Hearing on Application to Organize—A.R.S. § 6-409**

~~A formal hearing shall be held at least 10 days prior to the issuance of a permit to organize, which hearing shall be reported by a competent reporter who shall certify and file the transcript of the proceedings with the applicant and the Superintendent, the cost of which shall be borne by the applicant.~~

**R20-4-306. Subscription of Capital Forms—A.R.S. § 6-411(f)**

~~Forms for reporting subscription of capital shall be the form approved by the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation.~~

**R20-4-307. Formal Hearing on Communication with Members—A.R.S. § 6-421**

~~An order directing communication with members of an association shall be issued only if the Superintendent finds, after formal hearing notice to the affected association at least 10 days prior thereto, that the same is appropriate and truthful. Form of communication shall be presented at the hearing and affected association be given opportunity to object. The cost of such hearing shall be assessed to the requesting member or the affected association or both as the Superintendent may determine.~~

**R20-4-308. Required Audit Information—A.R.S. § 6-477**

~~If, pursuant to A.R.S. § 6-477, a licensed certified public accountant is retained to perform an annual audit of the books of an association, the association shall so notify the Superintendent, which notice shall include the name and business address of the person or firm so retained, prior to the commencement of such audit, and instructions by the association to the said accountant to file with the Superintendent of Banks as soon as completed a copy of all of the same audit reports, correspondence, and supplemental reports furnished to the association. This rule shall apply solely to the annual audit and not apply to internal audits, directors' audits, or any other audit performed by the association. The association may voluntarily file a copy of such internal audits with the Superintendent.~~

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**R20-4-312: Loans to Finance Acquisition and Development of Land—A.R.S. § 6-445**

**A: General provisions**

1. Subject to A.R.S. § 6-445 and the provisions of this rule, an association may invest in loans to finance:
  - a. The acquisition and development of land for primarily residential usage; and
  - b. The construction of homes or single family dwellings, inclusive of acquisition and development of land for primarily residential usage.
2. An association shall not invest in a loan under this rule unless it appears to the association that the purpose of the loan is to enable the borrower to undertake prompt development of land previously acquired or of land which will be acquired at the time the loan is made. The association shall fix the term of the loan, within the maximum term permitted by this rule, on the basis of its determination as to a reasonable period of time necessary for the borrower to complete development and to dispose of the completed lots and improvements to be constructed thereon.

**B: Basic limitations**

1. An association may make loans under this rule only when:
  - a. The aggregate amount of its outstanding guaranty shares, surplus, and reserves for losses is equal to more than 5% of the amount of its withdrawable accounts;
  - b. The resulting aggregate amount of its investments in loans under this rule, exclusive of that portion of loans under subsection (D) of this rule which is for the purpose of financing the construction of homes or single family dwellings, would not exceed 5% of the amount of its withdrawable accounts;
  - c. The loans are loans on the security of first liens; and
  - d. The real estate security for each such loan is located within the association's regular lending area.

**C: Loans to finance acquisition and development of land**

1. No loan shall be made under this paragraph in an amount equal to more than 75% of the value of the real estate security therefor as of the completion of the development thereof into building lots or sites ready for construction thereon. Each loan shall be repayable within a period of not more than 5 years and the interest thereon shall be payable at least semiannually. No disbursement of any of the proceeds of any loan made under this paragraph shall be made at any time if such disbursement, together with the aggregate amount of such proceeds previously disbursed by the association and not repaid to it, would exceed an amount equal to 75% of the value at such time of:
  - a. That portion of the security property which is building lots or sites and development of which is in progress or completed and
  - b. The remaining security property.

**D: Loans to finance construction of homes inclusive of acquisition and development of land**

1. An association may make loans on the security of, and for the purpose of financing the construction of homes or single family dwellings for sale on land the acquisition and development of which for primarily residential usage is also a purpose of any such loan. No loan shall be made under this paragraph in an amount equal to more than 80% of the value of the real estate security therefor as of the completion of the construction of homes or single family dwellings thereon. Each loan made under this paragraph shall be repayment in full within a period of not more than 6 years after the date of the loan instru-

ments, with or without periodic amortization but with interest payable at least semiannually, except that

a. Beginning not more than 12 months after the first disbursement of loan proceeds made for the purpose of financing the construction of any home or single-family dwelling, whether or not such construction has been completed, there shall be amortization of principal each month at a rate of not less than 1% of that portion of the loan balance that is applicable to such home or single-family dwelling, including the building site; and

b. Beginning not more than 4 years after the first disbursement of any loan proceeds, there shall be amortization of principal each month at a rate of not less than 1% of that portion of the loan balance which is not applicable to the construction of any home or single-family dwelling and its building site.

2. No disbursement of any of the proceeds of any loan made under this paragraph shall be made at any time if such disbursement, together with the aggregate amount of such proceeds previously disbursed by the association and not repaid to it, would exceed an amount equal to the sum of

a. 80% of the value at such time of homes or single-family dwellings under construction or completed and not sold;

b. 75% of the value at such time of that portion of the remaining security property which is building lots or sites and development of which is in progress or completed; and

c. 75% of the value at such time of the remaining security property, but any principal amortization required by this paragraph shall be deducted from such sum.

3. By a construction loan agreement or other suitable instrument applicable to each construction loan made by an association under this paragraph, such association shall reserve to its board of directors full power and the exclusive right, without regard to any other provision of any loan instrument or of any agreement applicable to such loan, to impose, at any time and from time to time, such limitations as such board of directors may determine on the number of homes and single-family dwellings the construction of which may be in progress at any 1 time from the proceeds of such loan.

**E: Releases; loan extensions**

1. Upon the release from the lien of any portion of the security property, the principal balance of any loan made under this rule shall be reduced by an amount at least equal to 110% of that portion of the outstanding principal loan balance which is attributable to the value of the property to be released; 'value' for such purpose is to be the value fixed at the time the loan was made or the loan amount was determined. The board of directors of an association may approve the extension of any such loan for a period of not more than 1 year beyond the loan term limit and may approve a second extension for an additional period of not more than 1 year. No such approval may be given unless:

a. Interest on the loan is current;

b. The unpaid principal balance of the loan is or has been reduced to an amount not in excess of 75% of the value of the security property (80% of the value of homes or single-family dwellings, less any amortization required by subsection (D)); and

c. Such board of directors has before it

i. An audited current financial statement of the

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- borrower;
- ii. A current written credit report on the borrower;
- iii. A current independent appraisal of the security property; and
- iv. A current written report on the feasibility of repayment of the loan at the expiration of the extension.

**F. Loans made prior to completion of planning.** If a loan is made under this rule to a borrower who acquires the land before completion of plans for development thereof, an association may lease the total amount of the loan for its later determination, based on appraisal after completion of such plans. However, an association shall not make such a loan unless the borrower has submitted a preliminary plan which, in the opinion of the association, is a feasible plan for development of the land for primarily residential usage. Where determination of the total amount of the loan is deferred under this subsection, the loan agreement or other suitable instrument shall provide for acceleration of maturity of the loan to a fixed date (which shall be not more than 2 years after the date of the first disbursement of any of the proceeds of the loan) if by such fixed date the borrower has not furnished to the association complete plans, satisfactory to the association, for development of the land and, if it is a loan under subsection (D) of this rule, for construction thereon.

**G. Limitations on loans on a single project or to 1 borrower.** No association shall invest an amount in excess of 2% of its withdrawable accounts in loans of any 1 land development project or in any such loan or loans to 1 borrower, including the balance of all outstanding loans made under this rule to any partnership, corporation, or syndicate of which any partner, stockholder, owner, participant, or officer is the borrower, or is a partner, stockholder, owner, participant, or officer of the borrower.

**H. Definition.** The term "development" as used in this rule means the installations and improvements necessary to produce from the land building sites so completed, in keeping with the applicable governmental requirements and with general practice in the community, that they are ready for the construction of buildings thereon.

**R20-4-314. Variable Rate Certificate Account—A.R.S. §§ 6-423(4)(c), 6-442(B)(4), 6-473**

- A.** An association may offer and issue a Variable Rate Certificate Account if the by-laws so provide and the board of directors of the association has, prior to offering said Certificate Account, by appropriate resolution setting forth the certificate form to be issued in connection therewith, approved such Variable Rate Certificate Account.
- B.** The certificate form shall be submitted to the Superintendent for his approval together with a certified copy of the approving resolution.
- C.** Each account shall be evidenced by a separate certificate which shall provide for maintenance for a continuous period of not less than 90 days in order to qualify for the higher variable rate.
- D.** The board of directors may distribute earnings on a Variable Rate Certificate Account, from and after the date of such certificate, at a rate higher than the current rate being paid on regular accounts. Dividends in excess of the current regular rate shall not be paid except upon full compliance with the terms set forth in the certificate.
- E.** If a portion of the Variable Rate Certificate Account is withdrawn, the certificate shall be, as of the date of such withdrawal, cancelled and a new certificate may be issued for the remaining balance of the account with the same rate, date, and maturity as the original certificate.

**F. No Variable Rate Certificate Account shall be issued prior to, or bear a date prior to, the effective date of this rule and regulation.**

**R20-4-315. Reserve Allocations—A.R.S. §§ 6-441(A), 6-473, 6-474**

The required allocation to the contingent reserve during each semi-annual period shall be as follows:

1. During the period January 1, 1964, to December 31, 1966, the required allocation during each period was 10% of the profit being apportioned.
2. For the semi-annual periods subsequent to December 31, 1966, the required allocation for each semi-annual period shall be not less than 5% except that the Superintendent may allow a lesser percent upon receipt of a written request setting forth the reasons why a lesser allocation should be permitted.
3. Prior excess allocations credit may be taken for allocations previously credited to the contingent reserve in excess of the above required amounts subsequent to December 31, 1963. A report listing the date and amount of each identifiable prior excess allocation previously credited to the reserve shall be filed with the Superintendent by June 26, 1967, for his examination and approval as to the total amount of excess allocations available for future credit as of that date. The failure of any such association to file this report by June 26, 1967, is presumptive evidence that there were no such prior excess allocations claimed.
4. Special reserves, as ordered by the Superintendent under A.R.S. § 6-474(E), shall not be construed as excess credits.

**R20-4-316. Determination Date—A.R.S. § 6-123**

For the purpose of computing earnings for distribution on savings accounts, the board of directors of an association may, after adoption of a resolution so providing and while such resolution remains in effect, fix a date, not later than the 10th day of the calendar month, for determining the date of investment of payments on savings accounts or designated classes thereof. Payments received by the association on or before such determination date shall receive earnings as if invested on the first of such month; payments received subsequent to such determination date shall receive earnings as if invested on the first of the next succeeding month, except that after adoption by the association's board of directors of a resolution so providing, payments received subsequent to a determination date may receive earnings from the date of receipt.

**R20-4-319. Dividends—A.R.S. § 6-442(B)(4)**

The board of directors of an association may, if the articles of incorporation and by-laws permit, adopt a resolution providing that dividends may be paid at the time of withdrawals on amounts withdrawn from savings accounts, or designated classes thereof, between the dates as of which such association regularly distributes earnings on savings accounts.

**R20-4-320. Accounting Practices—A.R.S. § 6-474**

- A.** An association shall use such forms and follow such accounting practices as the Superintendent may from time to time require, and shall close its books as of June 30 and December 31 of each year. An association may elect to close its books more often than once semi-annually.
- B.** An association which determines to maintain any of its records by means of data processing services shall notify the Superintendent, in writing, at least 90 days prior to the date on which such maintenance of records will begin. Such notification shall include identification of the records to be maintained by data processing services and the location at which such records will

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be maintained. Any contract, agreement or arrangement made by an association pursuant to which data processing services are to be performed for such association shall be in writing and shall expressly provide that the records to be maintained by such services shall at all times be available for examination and audit by federal and state supervisory authorities. A copy of the contract, agreement or arrangement shall be filed with the Superintendent.

**R20-4-321: Financial and Other Reports—A.R.S. § 6-478**

Each association shall file from time to time financial and other reports with the Superintendent in such form and manner as required by the Superintendent. In addition, each association shall file with the Superintendent a copy of each report filed with the Federal Home Loan Bank Board and Federal Home Loan Bank of San Francisco.

**R20-4-323: Branch Application Hearings—A.R.S. § 6-123**

All savings and loan associations, wishing to appear at a hearing held pursuant to A.R.S. § 6-475, for the purpose of objecting to the establishment of a branch, shall notify the Superintendent in writing, of its intent to appear and the specific objections to the application at least 5 days prior to the hearing.

**R20-4-329: Reports of Condition—A.R.S. § 6-123**

- A. Every savings and loan association shall make to the superintendent not less than 3 reports each year on forms furnished by the superintendent. Each report shall be verified by the oath of the president, vice president or controller of the association and attested to by not less than 3 directors. The date specified by the superintendent shall be the date designated by the officer of the United States authorized to make the call for reports of national banking associations.
- B. The report shall show the financial condition of the association at the close of business on the date specified.
- C. The report shall be transmitted to the superintendent within 10 days after the receipt of a request therefor, unless a shorter period is designated in the request.

**R20-4-331: Approved Sales with Recourse—A.R.S. § 6-451**

Sales of loans to the following agencies may be made with recourse if required by the agency:

1. Federal Home Loan Mortgage Corporation;
2. Federal National Mortgage Association;
3. Government National Mortgage Association.

**ARTICLE 5. SMALL LOANS**

**R20-4-501: Time Periods for Computing Loan Charges—A.R.S. §§ 6-625, 6-626**

Charges, on precomputed charge loan contracts, shall be computed on the basis of a 360-day year and each installment, other than the first installment, shall be computed as if there were 30 days in the installment period.

**R20-4-505: Charges for First Installment Period Pay-off—A.R.S. § 6-626**

On a precomputed charge loan repaid in full by cash during the 1st installment period, charges shall be computed as provided in Sections R20-4-507, R20-4-508, and R20-4-509 hereof, except that the licensee may at his option recompute charges as provided in paragraph (3) of A.R.S. § 6-626.

**R20-4-507: Refund Due for Full Loan Prepayment—A.R.S. § 6-626**

The standard refund table attached hereto as R20-4-523, based upon the direct ratio method (commonly known as the "Rule of 78"), shall be the basis for determining the amount of refund or credit due the borrower for prepayment in full of a precomputed

loan. Under the Rule of 78, the amount of charge applicable to any particular monthly installment period bears the same ratio to the original amount of precomputed charges, excluding any adjustment for a first period of more or less than 1 month, as the balance scheduled to be outstanding during that monthly period bears to the sum of all monthly balances scheduled by the original contract of loans.

**R20-4-509: Refunds to be Computed on Total Charges—A.R.S. §§ 6-626, 20-1611**

Refunds shall be computed on the total amount of precomputed charges based upon equal monthly periods, regardless of whether or not the 1st period is more or less than 1 month.

**R20-4-510: Prepayment before Third Installment Date—A.R.S. §§ 6-625, 6-626**

If a precomputed loan is prepaid in full by renewal, refinancing, or a new loan by the same licensee before the 3rd installment date, the licensee must recompute charges on the percent per month basis on unpaid principal balances by applying each payment which has been made, 1st to charges, and any remainder of the payment to principal. The charges so computed and retained by the licensee shall be in lieu of the precomputed charges or any portion thereof.

**R20-4-511: Prepayment on or After Third Installment Date—A.R.S. §§ 6-625, 6-626**

If prepayment of a precomputed loan in full by renewal, refinancing or by a new loan by the same licensee occurs on or after the 3rd installment date, or at any time if made by cash, the refund to the borrower of unearned charges shall be computed as provided in Sections R20-4-507, R20-4-508, and R20-4-509 hereof.

**R20-4-513: Definition: Default—A.R.S. § 6-626**

A default of a loan contract is failure to pay any full installment payment on or before the due date.

**R20-4-514: Default Charge—A.R.S. § 6-626**

A default charge on a precomputed loan for 1 month is the amount of refund or credit that would be given if the contract were prepaid in full 1 month before maturity, as determined from the table in R20-4-523.

**R20-4-515: Computation of Default Charge—A.R.S. § 6-626**  
For the purpose of computing default charges, on a precomputed loan, a licensee may elect to use 1 of the following methods:

1. If default of a full installment extends beyond 15 days, the default charge for 1 month multiplied by the nearest number of months such installment is in default, may be charged and collected at the time payment correcting the default is received.
2. By multiplying the exact number of days the installment is delinquent by 1/30th of the default charge for 1 month.

**R20-4-517: Deferred Payments—A.R.S. § 6-626**

Payment of all wholly unpaid installments may be deferred 1 or more full months and the due date of each such installment and the maturity of the contract so extended. The month or months in which no scheduled payment has been made or in which no payment is to be required by reason of the deferment shall be the deferment period and, unless otherwise requested by the borrower, such period shall not include an installment which is due more than 15 days after the date of deferment. Such a deferment may be made at the option of the licensee only when at least 1 wholly unpaid installment is more than 15 days in default. When such a deferment is made, the licensee may charge and collect an extension charge which shall not exceed the amount of charge applicable to the 1st month of the deferment period, multiplied by the number of months in said period. No portion of the precomputed charges shall apply to the deferment period and the portion of such charges applicable to each installment period following the deferment period and prior to



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~~the extended maturity shall remain the same as that applicable to such installment periods under the original contract of loan.~~

~~R20-4522: Consistent or Frequent Extensions A.R.S. §§ 6-603, 6-605, 6-607, 6-628~~

~~Consistent or frequent extensions for the approximate minimum period necessary to qualify for a full-month charge will be closely~~

~~scrutinized and investigated by the Banking Department.~~

~~R20-4523: Refund Chart - A.R.S. § 6-626~~

The following table is made part of the rules and regulations with reference to refunds, default charges and extension charges under A.P.S. § 6-626.

[illegible]

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**R20-4-527: Report of Sales Without Foreclosure Proceedings**  
~~A.R.S. §§ 6-616, 6-617, 6-122, 6-124~~

Reports of sales without foreclosure proceedings must be made on a standard form prescribed by the Banking Department.

**R20-4-528: Discontinuance of Business**~~A.R.S. § 6-611~~

A licensee who discontinues business under Chapter 5, A.R.S., but continues to liquidate outstanding accounts, shall be licensed until final liquidation.

**R20-4-531: Charges for Real Estate Loans**~~A.R.S. §§ 6-604, 6-628, 6-225~~

Charges for loans secured by real estate are limited to those authorized under Chapter 5, A.R.S., and installment loans (8% 6% add-on), under A.R.S. § 6-255, of the Banking Code. This does not apply to loans bearing interest payable at the legal rate (6%) or the contract rate of 10% computed on a declining balance.

**ARTICLE 6. DEBT MANAGEMENT COMPANIES**

**R20-4-601: Definitions**

In this Article, unless the context otherwise requires:

1. "Account" means the contractual relationship which has been established by a debtor with a licensee.
2. "Agency" means any business serving the public which as part of its services accepts money for or on behalf of a licensee.
3. "Branch office" means any office operated solely for the purpose of accepting money and performing other services for a licensee.
4. "Creditor" means a person for whose benefit monies are being collected and disbursed by a licensee.
5. "Debt management company" means a person who for compensation engages in whole or in part in the business of receiving money, or evidences thereof, as agent of a debtor for the purpose of distributing same to his creditors in payment or partial payment of his obligations.
6. "Debtor" means a person from whom monies are being accepted for disbursement to creditors pursuant to a written contract with the licensee.

7. "License" means a license to engage in the business of a debt management company issued under the provisions of A.R.S. Title 6, Chapter 6, and this Article.

8. "Licensee" means a person licensed by the Superintendent to engage in the business of a debt management company pursuant to the provisions of A.R.S. Title 6, Chapter 6, and this Article.

9. "Person" means a corporation, company, firm, partnership, association or society, as well as a natural person.

10. "Superintendent" means the State Superintendent of Banks or his authorized agent.

**R20-4-609: Articles of Incorporation; By-laws; Governing Document**

A. Each corporate licensee shall file with the Superintendent 1 copy, certified by an officer of the licensee, of each amendment to the articles of incorporation and bylaws of the licensee within 30 days after the amendment has been adopted.

B. Each noncorporate licensee shall file with the Superintendent 1 copy, certified by the licensee or a partner or manager thereof, of each amendment to the partnership agreement or other governing documents under which the licensee conducts business, within 30 days after the amendment has been adopted.

C. Each licensee and all of its officers, directors, partners, managing agents and other persons exercising control, shall comply fully with the articles of incorporation, bylaws, partnership agreement or other governing documents under which the licensee does business, and all fiduciary duties existing under common law or otherwise.

**R20-4-610: Change of Business Location**

A licensee shall notify the Superintendent in writing of any change in location of its place of business not later than 15 days before such change takes place. The notification required by this rule must be accompanied by the license issued for the place of business to be vacated and, if the change is not prohibited by law the license will be amended to reflect the change and returned to the licensee.